

**567—93.5(455B) Livestock water quality facilities requirements.**

**93.5(1) Livestock water quality facilities assistance.** Assistance under the CWSRF shall be in the form of low-interest loans made by participating lending institutions or in other manners as specified in an agreement with a pass-through loan recipient. The following eligibility conditions and restrictions for participation apply to such assistance.

*a. Location preferences.* Livestock water quality facilities located in watersheds with Section 303(d) waters or waters determined to be impaired in the Section 305(b) report will be given a higher priority for funding. See 567—91.9(455B).

*b. Eligible project costs.* The amount of assistance available shall be limited to the total costs deemed necessary, reasonable and directly related to the facilities required to provide water pollution control as required by the department or to prevent, minimize or eliminate water pollution.

*c. Applicant eligibility.* Assistance is limited to livestock producers operating animal feeding operations that are eligible to receive assistance from the state revolving fund according to current federal laws and regulations.

NOTE: Current federal laws and rules as of February 2007 do not allow assistance for concentrated animal feeding operations required to have a National Pollutant Discharge Elimination System permit or assistance for animal feeding operations that will become concentrated animal feeding operations required to have a National Pollutant Discharge Elimination System permit as a result of the project.

Loans will be made only to livestock producers that are operators of record and have legal control of the property containing the animal feeding operation for the duration of the loan.

*d. Project eligibility.* The water pollution control facilities considered eligible for assistance include: lagoons; waste treatment facilities and equipment, including but not limited to land on which waste facilities will be constructed; waste storage or holding structures; composting facilities and equipment; pipes, pumps, and agitation equipment used to move and manage manure; fencing around lagoons and other waste storage structures; water systems used to flush water in waste treatment systems; irrigation systems used for applying liquid wastes to the land; tank wagons, manure spreaders, tractor blades used for scraping waste and other waste collection and processing equipment (including tank trucks, loaders, skid loaders, and waste irrigation equipment); portions of feeding floors and loafing areas used for waste collection and storage; vegetative filters, filter strips, water and sediment control basins, contour buffer strips and diversions used to reduce pollution potential from livestock facilities or land disposal areas; fencing and cross fencing along with any associated watering facilities used as part of managed grazing systems; and other similar structures, equipment or water pollution abatement activities as may be found in manure management plans that fit the requirements of 567—65.17(459), in nutrient management plans, or in comprehensive nutrient management plans as defined by the USDA Natural Resources Conservation Service, provided that portions of the foregoing (except water systems used for flush water in waste treatment systems and composters) located within a poultry house, milk parlor or hog confinement facility (such as a slatted floor) shall be excluded. Assistance for development of manure management plans, nutrient management plans, and comprehensive nutrient management plans is eligible. Assistance may be available for the above-mentioned practices when a replacement animal feeding operation will eliminate an existing animal feeding operation in order to prevent a potential water quality impairment, mitigate a documented impairment, or eliminate a potential or documented pollutant source from a watershed. Assistance may be available for confinement feeding operation structures, including roofed manure storage facilities, in which manure is stored exclusively in a dry form if:

(1) An existing open feedlot operation is completely replaced by confinement feeding operation structures which store manure exclusively in dry form; or

(2) An existing animal feeding operation is expanded by the addition of confinement feeding operation structures which store manure exclusively in dry form, and manure controls meeting the requirements of 567—Chapter 65 are installed or documented for the existing animal feeding operation.

**93.5(2) Applying for assistance.** Application for project approval shall be made on forms provided by the department or its agent.

**93.5(3) State review and approval.** Prior to receiving assistance, a livestock producer shall submit to the department a description of facilities, equipment or preparation or updating of manure management, nutrient management or comprehensive nutrient management plans to be financed and documentation of project approval as determined by the department and detailed on the project application.

**93.5(4) Duration of the project.** The project is to be maintained, kept in place or operated as proposed for the life of the loan.

**93.5(5) Manure management plan required.** The livestock producer shall have a manure management plan that fits the requirements of 567—65.17(459), a nutrient management plan, or a comprehensive nutrient management plan as defined by the USDA Natural Resources Conservation Service to be eligible for the loan or, as part of the loan, develop a manure management plan, nutrient management plan or comprehensive nutrient management plan.

**93.5(6) Eligible costs.** All costs directly related to the design, permitting, construction and financing of the water pollution control facilities are eligible costs. Costs for development of a manure management plan, nutrient management plan or comprehensive nutrient management plan are eligible costs. Costs for updating a manure management plan, nutrient management plan, or comprehensive nutrient management plan are eligible costs if required for the implementation of a water quality project financed through the livestock water quality facilities program.

**93.5(7) Ineligible costs.** Costs for development of new animal feeding operations are not eligible costs. Costs for water pollution control facilities, including design, permitting, construction or financing, that allow for the animal feeding operation to expand and become a concentrated animal feeding operation are not eligible costs. Costs for the purchase of land to be used for application of wastewater or manure are not eligible costs. Costs for operation and maintenance are not eligible costs. Refinancing of water pollution control facilities constructed prior to the implementation of this program is not an eligible cost.

**93.5(8) Recipient record keeping.** The loan recipient shall maintain adequate records that document all costs associated with the project. The loan recipient shall agree to provide access to these records to the department, the state auditor, the EPA SRF project manager, and the Office of the Inspector General at the Environmental Protection Agency. The loan recipient shall retain all project records and documents for inspection and audit purposes for a period of three years from the date of the final loan payment.

**93.5(9) Site access.** The livestock producer shall agree to provide the department and the department's agent access to the construction site to verify that the loan was used for the purpose intended and that the construction work meets the applicable state and federal requirements for animal feeding operations. The livestock producer also shall agree to provide the department periodic access to the animal feeding operation for the duration of the loan to ensure that the constructed facility is being operated and maintained as designed.

**93.5(10) Interest rate and fees.** The loan interest rate and loan fees shall be established annually in the clean water state revolving fund intended use plan. The loan interest rate is not to exceed the prevalent interest rate. The establishment of loan fees will take into account the administration cost of the livestock water quality facilities set-aside.